

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Crl.M. No.27500-M of 2007

Date of Decision: 16.5.2007

Sameer Baweja and others.

....Petitioners.

Versus

State of Haryana and another.

...Respondents.

Present:- Mr. Vikas Kumar, Advocate
for the petitioners.

Mr. Narinder Sura, AAG Haryana
for the State.

Mr. P.S. Jammu, Advocate for
respondent No.2.

S.S.SARON, J.(ORAL)

Short reply filed on behalf of respondent No.2 in Court is taken on record.

The present criminal miscellaneous, under Section 482 Cr.P.C. has been filed seeking quashing of FIR No.255 dated 13.7.2004 (Annexure P1), registered at P.S. Mujessar, District Faridabad, for the offences under Sections 406, 498-A, 506, 376, 511 IPC. The offences under Section 376 read with Section 511 IPC were found to be false and were later on deleted.

The marriage between Sameer Baweja-petitioner No.1 and Smt. Preeti-respondent No.2 was solemnised on 21.4.2003 as per Hindu rites and ceremonies at Faridabad. Satish Kumar Baweja, petitioner No.2, Smt. Subhash Baweja, petitioner No.3 are the father-in-law and mother-in-

law respectively of the complainant Smt. Preeti, respondent No.2. Vineet Baweja, petitioner No.4 is the younger brother of Sameer Baweja, petitioner No.1. After the solemnisation of marriage between petitioner No.1 and respondent No.2, there has been no cohabitation between them. The parties were not able to live together and started living separately from 21.3.2004. For the period of last more than three years they have been living separately. The parties could not reconcile amongst themselves due to temperamental differences.

Smt. Preeti, respondent No.2, it is stated out of misunderstanding lodged FIR No.255 dated 13.7.2004 (Annexure P1), for the offences under Section 406,498-A,506,376 and 511 IPC. During the course of investigation the allegations with respect to the offence under Section 376 read with section 511 IPC which were attributed to Vineet Baweja, petitioner No.4 were held to be not made out. Accordingly no charge under Section 376 read with section 511 IPC was framed against petitioner No.4 by the trial Court against whom alone such allegations were made. Petitioner No.1 filed a petition under Section 13 of the Hindu Marriage Act, 1955,('Act' for short) before the learned District Judge, Faridabad, for dissolution of the marriage between the parties by a decree of divorce. The said petition was dismissed in pursuance of judgment and decree dated 17.1.2007 passed by the learned Additional District Judge, Faridabad. Aggrieved against the same the petitioner No.1 filed an appeal i.e. F.A.O. No.53-M of 2007 in this Court. During the pendency of the appeal the parties with the intervention of respectables settled their outstanding disputes and also submitted a joint petition under Section 13 B

of the Act, for dissolution of their marriage by a decree of divorce by mutual consent. The terms and conditions that were mutually settled between the parties have been enumerated in Para-7 of the petition. The compromise dated 18.4.2007 (Annexure P2) that was entered into by the parties has been placed on record. Both the parties have settled their outstanding disputes in terms of compromise dated 18.4.2007 (Annexure P2) which has been entered into at their own will. The terms of compromise, inter-alia, provide that Sameer Baweja-petitioner No.1, has agreed to pay a sum of Rs.6,50,000/- to Smt. Preeti-respondent No.2 in full and final settlement of her permanent alimony. Besides she would have no claim in respect of any moveable and immovable property against petitioner No.1 and she would not raise any claim for maintenance or any demand in future from petitioner No.1. Smt. Preeti on her part has undertaken to withdraw the petition under Section 125 Cr.P.C. for grant of maintenance. It has also been agreed by her that in the event of petitioner No.1 and his family filing a petition under Section 482 Cr.P.C. for quashing of FIR No.255 dated 13.7.2004 (Anneure P1), she shall not oppose the quashing thereof and has undertaken to make a statement in this regard in proceedings under Section 482 Cr.P.C. A demand draft dated 16.4.2007 drawn on Punjab National Bank, Railway Road, old Faridabad for a sum of Rs.6,50,000/- lacs was handed over to Sh.S.K.Anand, for further transmission to Smt. Preeti. Therefore it is prayed that the petition may be accepted and the FIR be quashed.

In the short reply filed by respondent No.2 Smt. Preeti, it has been stated that the marriage between the parties has been dissolved in

pursuance of the judgment and decree dated 24.4.2007. Besides both the parties have settled their outstanding disputes, vide compromise deed dated 18.4.2007. An amount of Rs. 6,50,000/- has been received by respondent No.2 in proceedings under Section 13-B of the Act and that she would not have any claim against the petitioners in respect of any moveable and immovable property.

Learned counsel for the State has submitted that in case the parties have amicably settled their matrimonial dispute, the State would have no objection to the quashing of the FIR, in view of the judgment of Supreme Court in **BS Joshi Vs. State of Haryana** 2003 SCC(Criminal) 848.

In the afore-noticed circumstances, it is apparent that the dispute between the parties has been amicably settled and the parties have decided to partways amicably. Besides, it is accepted by the parties that the offences under Section 376 read with section 511 IPC that were attributed to petitioner No.4 only were subsequently dropped. The learned trial Court even did not frame any charge in respect of the said offences against petitioner No.4 against whom alone the allegations were made. In B.S.Joshi's case (supra) it has been inter-alia held that the inherent jurisdiction of this Court under section 482Cr.P.C. can be exercised in offences relating to matrimonial disputes even though they are not compoundable. It was rather stressed that there should be an endeavour to settle the matrimonial dispute amicably. Therefore, in order to put the matter to an end so that the parties may part their ways amicably, it would be just and expedient to quash the impugned FIR (Annexure P1).

Respondent No.2 has received Rs. 6,50,000/- which has been stated in her reply by way of an affidavit filed in Court today that it is towards full and final settlement and she would not have any claim against the petitioners in respect of any moveable or immovable property. It has also been stated that both the parties have entered into a compromise of their own sweet will. In view of the fore-going position the case FIR No.255 dated 13.7.2004 (Annexure P1) registered at Police Station Mujessar, District Faridabad, is liable to be quashed.

Consequently the petition is allowed and FIR No.255 dated 13.7.2006 (Annexure P1) registered at Police Station Mujessar, District Faridabad, and all consequential and subsequent proceedings arising in pursuance of the aforesaid FIR shall stand quashed.

May 16,2007
Reema

(S.S.SARON)
JUDGE